IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 16486 of 2007

Dated 12th October, 2007

Between

The University of Hyderabad Non-Teaching Employees Association, PO Central University, Gachibowli, Hyderabad, rep. By its General Secretary A.M.Anil Kumar

……Petitioner

and

The University of Hyderabad, PC Central University, Gachibowli, Rep. By its Registrar, and, others

…Respondents

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 16486 of 2007

ORDER:

The petitioner, a Non-teaching Employees Association of University of Hyderabad, filed this Writ Petition seeking Writ of Mandamus to declare the action of the second respondent in accepting the nomination of the third respondent-Union for the purpose of identifying the majority association as illegal and arbitrary, and, consequently, to set aside the proceedings No.UH/EC/Veri-ele/2007/3980, dated 31-7-2007 issued by the second respondent.

The petitioner is the University of Hyderabad Non-Teaching

Employees Association of Groups B, C, and D category employees of the first respondent-University. The Association was registered vide Registration No.982/78 and it is stated that the same is recognized by the first respondent-University. The third respondent is also a Union consisting of non-teaching employees of Groups B, C & D working in the first respondent-University and the same is registered under the Trade Union Act. It is stated that the petitioner-association was formed with a view to protect the interests of non-teaching staff of the first respondent-University and to represent to the authorities of the University for redressal of grievances of its members.

From time to time, as per Ordinances framed under the University of Hyderabad Act, 1974, the first respondent-University was conducting verification process for the purpose of identifying the majority Union to negotiate the problems of the employees with the University. It is the grievance of the petitioner-association that though the third respondent-Union is represented by the individuals who are the retired employees of the University, their nominations for the purpose of identification process was accepted by overruling its objection put-forth before the second respondent-Election Commission, University of Hyderabad constituted by the first respondent-University.

The University of Hyderabad is constituted by a Central Legislation, namely, University of Hyderabad Act, 1974. Section 24 of the University of Hyderabad Act, 1974 empowers the University to frame Statutes and Statute-42 of the Statutes framed by the first respondent-University empowers the University to frame conditions for the purpose of recognition of the associations or unions of the students, teachers, and other staff of the University by way of

Ordinances. In exercise of powers under Section 24(1) read with Statute No. 42, the Registrar, University of Hyderabad had issued notification No.UH/EC&LC/F.32/98/980, dated 9-3-1998, notifying the 'Ordinance on the Establishment and Recognition of Unions or Associations of Non-Teaching Employees of the University'.

The verification process for identification of the majority union/association was conducted on 13-6-2005 and in the said process, third respondent was declared as the majority union and was granted right to represent the interests of the non-teaching staff before the first respondent for a period of two years. The said period expired on 12.6.2007 and thereafter the first respondent has issued notification on 15-6-2007 calling for applications from the associations/unions for the purpose of identification process. The applications were required to be submitted on or before 22-6-2007. But however, the applications submitted by the petitioner as well as the third respondent were found to be not in accordance with the provisions of the Ordinance as they did not fulfill the requirements specified therein, and as such, it was decided to issue fresh notification. Thereafter, the respondent-University issued fresh notification on 26-7-2007 and, the petitioner as well as the third respondent responded to the said notification. However, in the meanwhile, before listing of the valid applications for the purpose of verification of majority association, the petitioner herein submitted representation objecting to the application filed by the third respondent mainly on the ground that it was signed by the President and General Secretary of the Union, by name, Sri B.R. Rao and Sri V.Lachaiah respectively, who are the outsiders as they retired from the service of University and it is contrary to the conditions notified in the Ordinance of the University, and, as such, the petitioner Union

is the only qualified association for the purpose of conducting verification for identifying the majority association. In response to the same, the Election Commission has addressed a letter dated 31-7-2007 intimating the petitioner that the third respondent-Union was represented by working President. Subsequently, on 31-7-2007, notification was issued by the Election Commission, notifying the date of verification as 7.8.2007.

In this case, it is the case of the petitioner-Association that the working President and Secretary, namely, Sri B.R. Rao and Sri V.Lachaiah respectively, were the retired employees of the University, and as the President, Secretary, and other Office Bearers of an Association/Union should be the employees of the respondent University, the application filed under their signature is not valid and contrary to various provisions of the Ordinance, but the same is illegally accepted. It is stated that the petitioner-association had objected for alienation of the land of the University to private persons and as such, the Vice-Chancellor and Registrar are nursing grudge against the petitioner-association and making efforts to favour the third respondent-Union.

The Registrar of the respondent-University filed counter affidavit on behalf of the respondents 1 and 2. While generally denying the various allegations of the petitioner, it is stated that pursuant to the notification, dated 15-6-2007, the petitioner himself made a request for extension of time for filing nomination only with an intention to delay the verification process. It is stated that even after due date, the petitioner had not submitted nomination, but, gave the required information for verification in bits and pieces. It is stated that as much as the petitioner had not submitted list of members of the Association, and, both the petitioner and third

respondent did not fulfill required conditions as specified in the Ordinance, fresh notification was issued on 26-7-2007. It is stated that pursuant to the fresh notification, the third respondent had submitted its nomination on 28-7-2007 and in fact the petitioner did not submit its nomination in the prescribed format. However, considering the earlier nomination coupled with letter dated 24-7-2007 addressed by the petitioner, the petitioner is also declared as eligible to contest in the election for the purpose of identification of majority union. It is further stated that the President and Secretary of the third respondent-Union were also employees of the University and they retired from service after their election as Office Bearers, and, the third respondent informed that they will conduct next internal elections to select the new office bearers after the verification process is over and informed that retired employees are not part of the Union as they are no more in the service of the University. It is averred in the counter that as per Clause 8 of the Ordinance, every Union/association has to furnish the list of elected office bearers to the University after verification process in order to obtain formal approval and function within the University and as such, it is stated that nomination of the third respondent is also accepted as valid. With regard to the allegation of the petitioner that the Vice-Chancellor and the Registrar of the University are nursing a grudge against the petitioner, it is stated that the respondent is ensuring fair election by taking the totality of the situation and circumstances, instead of resorting to hyper technical objections. Further, it is averred that there is alternative remedy provided in Clause 12 of the Ordinance and the petitioner is trying to delay the verification of election process for identifying majority union.

The third respondent also filed separate counter affidavit.

While generally denying the various allegations of the petitioner, it is stated that the petitioner himself did not submit application within the date stipulated pursuant to the notification dated 15-6-2007 issued by the University. It is stated that even with reference to the notification dated 26-7-2007, they have submitted nomination on 28-7-2007 in the prescribed format. It is averred in the counter affidavit that two Office Bearers of the Union, namely, Sri Raghava Rao and Sri Lachaiah have retired from service on 1-7-2006 and 31-5-2007 respectively, but, however, the Managing Committee unanimously resolved that the services of the said two persons are required till their tenure is completed and the new incumbents take charge and nomination was filed by the working President only. It is further stated that as per the provisions of the Ordinance, those who retired from the University are not entitle to cast their votes and they are only members of the Union. Further, it is stated that the said office bearers have not participated in the election and acceptance of their nomination is in accordance with the provisions of the Ordinance. In the counter affidavit, it is also specifically stated that the term of the elected body of the third respondent is for a period of two years and it is stated that after the verification is completed, the third respondent will hold elections to the office bearers of the Union. It is averred that the two retired employees who are office bearers of the Union did not cast their votes and therefore, the same did not cause prejudice to the petitioner-Association.

Heard Shri G.Mohan Rao for the petitioner, learned Standing Counsel for the University of Hyderabad and Shri Nandigama Krishna Rao appearing for the third respondent.

For considering the grant of relief as prayed for, at the outset, it is to be noticed that the notifications, which were issued by the respondent-University, firstly on 15.6.2007 and subsequently on

26.7.2007, are only for inviting the applications from the associations/unions for the purpose of verification of majority. It is not an election of the Office Bearers of an association. The petitioner-association has questioned the acceptance of the third respondent's nomination for the purpose of verification of majority association only on the ground that the application on behalf of the third respondent was signed by M/s. B.Raghava Rao and V.Lachaiah who retired from the service of the University subsequent to their election as President and Secretary of the third respondent-Union. It is not in dispute that even the said persons were also the employees earlier. It is stated in the counter affidavit filed by the third respondent that in view of the expiry of the term of the Office Bearers, there is a resolution in the General Body Meeting authorizing them to represent till elections are conducted. Though it is submitted by the learned counsel for the petitioner that as per the Ordinance issued by the University under the provisions of the University of Hyderabad Act and Statute No.42, only an employee can be a member of the union and no association shall allow any outsider as a member and elect him as an Office Bearer, but, however, in this case, it is clearly stated in the counter affidavit filed by the respondent-University and the third respondent that in the elections for verification process held on 7th August, 2007, the President and the Secretary who retired subsequent to their election as Office Bearers of third respondent-union did not cast their votes though they forwarded the application on behalf of the third respondent-Union. The learned counsel for the petitioner has placed reliance on a decision of the Supreme Court in **M.P.Transport Workers' Federation Bhopal, State of M.P. and another v. Rajya Parivahan Karamchari Mahasangh, Ujjain and others**[1], wherein the Honourable Supreme Court sustained the order of the High Court allowing the writ petition stating that the recognition as representative-Union was contrary to Rule 13 of the Madhya Pradesh Industrial Relations Rules, 1961. But, however, in

the instant case, no such stage has reached. Further, the petitioner approached this court only at the stage of accepting the applications for the purpose of verification of majority status. Though as per the provisions of the Ordinance issued by the University in exercise of its powers under Section 24 read with Statute No.42, an outsider cannot be a member of the association, but, in the instant case, the President and the Secretary were elected when they were in service of the University and they retired subsequently, and, in the absence of election to the Office Bearers after expiry of their term, based on the resolution of the General Body they were authorized to make an application for the purpose of verification of majority only. Further, it is stated in the counter affidavit filed by the third respondent that the applicants did not vote in the verification process pursuant to the impugned notification. In that view of the matter, as much as it is not an election to the office Bearers of any association and as the said two persons working as President and Secretary who forwarded the application of the third respondent for the purpose of verification process did not participate in the election, no prejudice has been caused to the petitioner-association so as to declare the impugned proceedings as illegal at this stage. It cannot also be said that accepting nomination of the third respondent is contrary to any of the provisions of the Statute as pleaded by the petitioner. Further, it is stated in the counter affidavit filed by the third respondent that internal elections will be conducted for electing Office Bearers of the third respondent-association after the verification process is over.

With regard to the allegation of the petitioner that as the petitioner opposed the move of the Vice-Chancellor and the Registrar for alienation of the land in favour of private persons, they have developed grudge against the petitioner-association, no material, whatsoever, has been produced in support of the same and, on the other hand, the said allegation has been denied by the first respondent and detailed reasons have been given for accepting the application of the third respondent-union. Therefore, I do not

find any substance in such an allegation.

For the reasons aforementioned, I do not find any illegality in treating the nomination of the third respondent-Union as valid for the purpose of verification of majority association pursuant to Notification No.UH/EC/Veri-ele/2007, dated 26.7.2007, and, consequently, no relief as sought for in the writ petition can be granted. However, as this court permitted only verification to be done and ordered the results of it to be not declared, I direct the respondents to proceed with the counting process and declare the results of verification for the purpose of identification of Majority Union/Association, and, in the event of 3rd respondent emerging as a majority union, it shall elect new Office Bearers from among its working employee-members. The respondent-University is also directed not to negotiate with any of the representatives of the third respondent-Union who are not employees of the University.

Subject to above direction, the writ petition is disposed of. There shall be no order as to costs.

12-10-2007 **R.SUBHASH REDDY, J.**
MSNR/VR

[1] (1998) 8 SCC 484